

109TH CONGRESS  
2D SESSION

# S. 3881

To amend the Internal Revenue Code of 1986 to encourage private philanthropy.

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IN THE SENATE OF THE UNITED STATES

SEPTEMBER 8, 2006

Mr. ISAKSON (for himself and Mr. LAUTENBERG) introduced the following bill;  
which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to encourage private philanthropy.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Personal Philanthropy  
5 Account Act of 2006”.

6 **SEC. 2. PERSONAL PHILANTHROPY ACCOUNTS.**

7 (a) IN GENERAL.—Part VII of subchapter B of chap-  
8 ter 1 of the Internal Revenue Code of 1986 (relating to  
9 additional itemized deductions for individuals) is amended

1 by redesignating section 224 as section 225 and by insert-  
 2 ing after section 223 the following new section:

3 **“SEC. 224. PERSONAL PHILANTHROPY ACCOUNTS.**

4 “(a) ALLOWANCE OF DEDUCTION.—

5 “(1) IN GENERAL.—In the case of an indi-  
 6 vidual, there shall be allowed as a deduction for the  
 7 taxable year an amount equal to the aggregate  
 8 amount paid in cash during such taxable year (and  
 9 not described in subsection (d)(2)(A)(ii)) by or on  
 10 behalf of such individual to a personal philanthropy  
 11 account of such individual.

12 “(2) COORDINATION WITH CHARITABLE CON-  
 13 TRIBUTIONS.—

14 “(A) IN GENERAL.—With respect to any  
 15 amount allowable as a deduction under para-  
 16 graph (1)—

17 “(i) no other deduction shall be al-  
 18 lowed under any other provision of this  
 19 title, and

20 “(ii) such amount shall be considered  
 21 a charitable contribution for purposes of  
 22 section 170(b)(1).

23 “(B) EMPLOYER CONTRIBUTIONS.—With  
 24 respect to any amount contributed by an em-  
 25 ployer on behalf of the account holder—

1 “(i) except as provided in clause (ii),  
 2 such amount shall be considered a chari-  
 3 table contribution for purposes of section  
 4 170(b)(2), and

5 “(ii) if the employer provides such  
 6 amount pursuant to a program under  
 7 which the employer matches employee con-  
 8 tributions at least dollar-for-dollar on con-  
 9 tributions up to 5 percent of all employees’  
 10 compensation—

11 “(I) clause (i) shall not apply  
 12 with respect to such amount, and

13 “(II) such amount shall not be  
 14 taken into account under subsection  
 15 (b)(1).

16 “(b) PERSONAL PHILANTHROPY ACCOUNT.—For  
 17 purposes of this section, the term ‘personal philanthropy  
 18 account’ means a trust created or organized in the United  
 19 States exclusively for the purpose of making distributions  
 20 for the charitable purposes designated by an individual  
 21 who is the account holder of the trust (and designated as  
 22 an personal philanthropy account at the time created or  
 23 organized), but only if the written governing instrument  
 24 creating the trust meets the following requirements:

1           “(1) Except in the case of a rollover contribu-  
 2           tion described in subsection (d)(3), no contribution  
 3           will be accepted unless it is in cash, and contribu-  
 4           tions will not be accepted for the taxable year on be-  
 5           half of any individual in excess of \$15,000.

6           “(2) The trustee is a bank (as defined in sec-  
 7           tion 408(n)) or such other person who demonstrates  
 8           to the satisfaction of the Secretary that the manner  
 9           in which that person will administer the trust will be  
 10          consistent with the requirements of this section or  
 11          who has so demonstrated with respect to any per-  
 12          sonal philanthropy account and who is not disquali-  
 13          fied under subsection (f).

14          “(3) No part of the trust assets will be invested  
 15          in life insurance contracts.

16          “(4) The assets of the trust shall not be com-  
 17          mingled with other property except in a common  
 18          trust fund or common investment fund.

19          “(c) DEFINITIONS AND SPECIAL RULES.—For pur-  
 20          poses of this section—

21                 “(1) DEFAULT DISTRIBUTION RULES.—

22                         “(A) IN GENERAL.—No account shall be  
 23                         treated as a personal philanthropy account un-  
 24                         less at all times there are in effect qualified de-

1 fault charitable organization designations under  
2 subparagraphs (B) and (C).

3 “(B) QUALIFIED DEFAULT CHARITABLE  
4 ORGANIZATION DESIGNATION.—For purposes of  
5 subparagraph (A), a qualified default charitable  
6 organization designation in effect under this  
7 subparagraph is the designation by the account  
8 holder of an organization to which the remain-  
9 der of such account may be made in the form  
10 of a qualified philanthropy payment upon the  
11 death of the account holder in any case in  
12 which the account holder fails to provide by will  
13 or other suitable estate document for the dis-  
14 tribution of the assets of such account.

15 “(C) TRUSTEE DESIGNATION.—For pur-  
16 poses of subparagraph (A), a qualified default  
17 charitable organization designation in effect  
18 under this subparagraph is the designation by  
19 the trustee of the personal philanthropy account  
20 of an organization to which a payment under  
21 subparagraph (B) will be made if the organiza-  
22 tion designated under subparagraph (B) is not  
23 qualified to receive a qualified philanthropy  
24 payment at the time of such payment.

1           “(2)   MINIMUM   DISTRIBUTION   REQUIRE-  
2   MENTS.—

3           “(A)   IN GENERAL.—No account shall be  
4           treated as a personal philanthropy account for  
5           a taxable year unless such account meets the  
6           minimum distribution requirements for such  
7           taxable year.

8           “(B)   MINIMUM DISTRIBUTION REQUIRE-  
9           MENT.—An account meets the minimum dis-  
10          tribution requirements for a taxable year if the  
11          aggregate distributions from the account for the  
12          taxable year are not less than 5 percent of the  
13          balance of such account as of the last day of  
14          the preceding taxable year.

15          “(C)   EXCEPTION FOR ACCOUNTS WITH A  
16          BALANCE OF LESS THAN \$10,000.—Subpara-  
17          graph (A) shall not apply to any account for a  
18          taxable year if the balance of such account as  
19          of the last day of the preceding taxable year is  
20          less than \$10,000.

21          “(3)   DENIAL OF DEDUCTION TO DEPEND-  
22          ENTS.—No deduction shall be allowed under this  
23          section to any individual with respect to whom a de-  
24          duction under section 151 is allowable to another  
25          taxpayer for a taxable year beginning in the cal-

1       endar year in which such individual's taxable year  
2       begins.

3               “(4) INFLATION ADJUSTMENT.—In the case of  
4       any taxable year beginning in a calendar year after  
5       2008, the dollar amount contained in subsection  
6       (b)(1) shall be increased by an amount equal to—

7               “(A) such dollar amount, multiplied by

8               “(B) the cost-of-living adjustment deter-  
9       mined under section 1(f)(3) for the calendar  
10      year in which the taxable year begins, deter-  
11      mined by substituting ‘calendar year 2007’ for  
12      ‘calendar year 1992’ in subparagraph (B)  
13      thereof.

14      Any increase determined under the preceding sen-  
15      tence shall be rounded to the nearest multiple of  
16      \$50.

17               “(d) TAX TREATMENT OF DISTRIBUTIONS.—

18               “(1) IN GENERAL.—Any distribution from a  
19      personal philanthropy account shall be includible in  
20      the gross income of the account holder in the man-  
21      ner as provided in section 72.

22               “(2) QUALIFIED PHILANTHROPY PAYMENTS OR  
23      IMMEDIATE RETURN OF CONTRIBUTIONS.—

“(A) IN GENERAL.—No amount shall be includible in gross income under paragraph (1) to the extent that such distribution—

“(i) is a qualified philanthropy payment, or

“(ii) is equal to the amount of contributions made within 30 days before the date of such distribution.

“(B) QUALIFIED PHILANTHROPY PAYMENT DEFINED.—For purposes of this section, the term ‘qualified philanthropy payment’ means a distribution from a personal philanthropy account—

“(i) which is made, pursuant to a request by the account holder, by the trustee of the account within 30 days after receipt by the trustee of a certification under subparagraph (C), and

“(ii) which is paid for a purpose specified in section 170(c).

A trustee who fails to meet the 30-day requirement of clause (i) shall be subject to disqualification as a trustee.

“(C) ORGANIZATION CERTIFICATION.—For purposes of subparagraph (B)(i), a certification



under this subparagraph is a certification by an organization pursuant to a written request by the trustee of a personal philanthropy account that the organization is an organization which—

“(i) is described in section 501(c)(3) and exempt from tax under section 501(a), and

“(ii) is not a personal philanthropy account.

“(D) COORDINATION WITH CHARITABLE CONTRIBUTIONS.—

“(i) No deduction shall be allowed under sections 170, 642(c), 2055, 2106(a)(2), or 2522 for any amount excluded from gross income under subparagraph (A).

“(ii) Under regulations, the amount allowable as a deduction under sections 170, 642(c), 2055, 2106(a)(2), or 2522 (as appropriate) for the taxable year (without regard to this clause) shall be reduced by the amount excluded from gross income for the taxable year under subparagraph (A).

1                   “(iii) Section 170(d) shall not apply  
2                   to any amount excluded from gross income  
3                   under subparagraph (A).

4                   “(3) ROLLOVER CONTRIBUTIONS.—

5                   “(A) IN GENERAL.—Paragraph (1) shall  
6                   not apply to any amount paid or distributed  
7                   from a personal philanthropy account to the ex-  
8                   tent that the amount received is paid, not later  
9                   than the 60th day after the date of such pay-  
10                  ment or distribution, into another personal phi-  
11                  lanthropy account of the same account holder.  
12                  The preceding sentence shall not apply to any  
13                  payment or distribution if it applied to any  
14                  prior payment or distribution during the 12-  
15                  month period ending on the date of the pay-  
16                  ment or distribution.

17                  “(B) HEIR.—Paragraph (1) shall not  
18                  apply to any amount paid or distributed from  
19                  a personal philanthropy account of a decedent  
20                  to the extent that the amount received is paid,  
21                  not later than the 60th day after the date of  
22                  such payment or distribution, into the personal  
23                  philanthropy account of an heir of the decedent,  
24                  as designated by the will of the decedent.

1           “(4) ADDITIONAL TAX FOR DISTRIBUTIONS NOT  
2       USED   FOR   CHARITABLE   CONTRIBUTION   PUR-  
3       POSES.—The tax imposed by this chapter for any  
4       taxable year on any account holder with respect to  
5       any distribution from a personal philanthropy ac-  
6       count which is includible in gross income shall be in-  
7       creased by 100 percent of the amount which is so  
8       includible.

9       “(e) TAX TREATMENT OF ACCOUNT.—

10           “(1) IN GENERAL.—A personal philanthropy  
11       account shall be exempt from taxation under this  
12       subtitle. Notwithstanding the preceding sentence,  
13       the personal philanthropy account shall be subject to  
14       the taxes imposed by section 511 (relating to imposi-  
15       tion of tax on unrelated business income of chari-  
16       table organizations).

17           “(2) ACCOUNT TERMINATIONS.—Rules similar  
18       to the rules of paragraphs (2) and (4) of section  
19       408(e) shall apply to any personal philanthropy ac-  
20       count.

21       “(f) DISQUALIFICATION OF TRUSTEE.—The trustee  
22       of a personal philanthropy account shall not be qualified  
23       to be a trustee of such account after a final determination  
24       by the Secretary that the trustee has disbursed more than

1 10 percent of its payments from personal philanthropy ac-  
 2 counts to non-qualifying organizations in a calendar year.

3 “(g) FEES.—The Commissioner of the Securities and  
 4 Exchange Commission (or the Commissioner’s designee)  
 5 shall certify that fees charged by any trustee or asset man-  
 6 ager of a personal philanthropy account are fair and rea-  
 7 sonable. The failure to so certify shall result in the dis-  
 8 qualification of such person as a trustee or asset manager  
 9 of personal philanthropy accounts.

10 “(h) REPORTS.—The trustee of a personal philan-  
 11 thropy account shall make such reports regarding such ac-  
 12 count to the Secretary and to the holder the account with  
 13 respect to contributions, distributions, and such other  
 14 matters as the Secretary may require. The reports re-  
 15 quired by this subsection shall be filed at such time and  
 16 in such manner and furnished to such individuals at such  
 17 time and in such manner as may be required.”.

18 (b) DEDUCTION ALLOWED WHETHER OR NOT INDIV-  
 19 VIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a)  
 20 of section 62 of such Code is amended by inserting before  
 21 the flush sentence at the end the following new paragraph:

22 “(21) PERSONAL PHILANTHROPY ACCOUNTS.—  
 23 The deduction allowed under section 224.”.

24 (c) EXCLUSION FOR EMPLOYER CONTRIBUTIONS TO  
 25 PERSONAL PHILANTHROPY ACCOUNTS.—

1           (1) IN GENERAL.—Part III of subchapter B of  
 2       chapter 1 of such Code is amended by inserting  
 3       after section 139A the following new section:

4       **“SEC. 139B. CONTRIBUTIONS BY EMPLOYER TO PERSONAL**  
 5                   **PHILANTHROPY ACCOUNTS.**

6       “(a) IN GENERAL.—Gross income of an employee  
 7       does not include contributions by the employer to the per-  
 8       sonal philanthropy account of the employee.

9       “(b) PERSONAL PHILANTHROPY ACCOUNT.—For  
 10      purposes of this section, the term ‘personal philanthropy  
 11      account’ shall have the meaning given to such term by  
 12      section 224.

13      “(c) EXCLUSION NOT TO EXCEED COMPENSA-  
 14      TION.—

15           “(1) EMPLOYEES.—The amount excluded from  
 16      gross income by subsection (a) with respect to an  
 17      employee shall not exceed such employee’s wages,  
 18      salaries, tips, and other employee compensation  
 19      which are attributable to such employee’s employ-  
 20      ment by the employer referred to in such subsection.

21           “(2) SELF-EMPLOYED INDIVIDUALS.—The  
 22      amount excluded from gross income by subsection  
 23      (a) for contributions with respect to an individual  
 24      who is self employed shall not exceed such individ-  
 25      ual’s earned income (as defined in section 401(c)(2))

1 derived by the taxpayer from the trade or business  
 2 with respect to which the individual is self-employed.

3 “(3) COMMUNITY PROPERTY LAWS NOT TO  
 4 APPLY.—The limitations under this subsection shall  
 5 be determined without regard to community prop-  
 6 erty laws.”.

7 (2) CONFORMING AMENDMENTS.—

8 (A) Section 3121(a) of such Code is  
 9 amended by striking “or” at the end of para-  
 10 graph (21), by striking the period at the end of  
 11 paragraph (22) and inserting “; or”, and by in-  
 12 serting after paragraph (22) the following new  
 13 paragraph:

14 “(23) any payment made to a personal philan-  
 15 thropy account (as defined in section 224) of an em-  
 16 ployee.”.

17 (B) Section 3231(e) of such Code is  
 18 amended by adding at the end the following  
 19 new paragraph:

20 “(13) PERSONAL PHILANTHROPY ACCOUNT  
 21 CONTRIBUTIONS.—The term ‘compensation’ shall  
 22 not include any payment made to a personal philan-  
 23 thropy account (as defined in section 224) of an em-  
 24 ployee.”.

1           (C) Section 3306(b) of such Code is  
2           amended by striking “or” at the end of para-  
3           graph (18), by striking the period at the end of  
4           paragraph (19) and inserting “; or”, and by in-  
5           serting after paragraph (19) the following new  
6           paragraph:

7           “(20) any payment made to a personal philan-  
8           thropy account (as defined in section 224) of an em-  
9           ployee.”.

10           (D) Section 3401(a) of such Code is  
11           amended by striking “or” at the end of para-  
12           graph (21), by striking the period at the end of  
13           paragraph (22) and inserting “; or”, and by in-  
14           serting after paragraph (22) the following new  
15           paragraph:

16           “(23) any payment made to a personal philan-  
17           thropy account (as defined in section 224) of an em-  
18           ployee.”.

19           (E) Section 6051(a) of such Code is  
20           amended by striking “and” at the end of para-  
21           graph (12), by striking the period at the end of  
22           paragraph (13) and inserting “, and”, and by  
23           inserting after paragraph (13) the following  
24           new paragraph:

1 “(14) the amount contributed to any personal  
 2 philanthropy account (as defined in section 224) of  
 3 such employee or such employee’s spouse.”.

4 (d) PROHIBITED TRANSACTIONS.—

5 (1) EXCEPTION FOR TAXABLE DISTRIBUTIONS  
 6 FROM PERSONAL PHILANTHROPY ACCOUNTS.—Sub-  
 7 section (c) of section 4975 of such Code (defining to  
 8 prohibited transaction) is amended by adding at the  
 9 end the following new paragraph:

10 “(7) SPECIAL RULE FOR PERSONAL PHILAN-  
 11 THROPY ACCOUNTS.—An individual for whose ben-  
 12 efit a personal philanthropy account is established  
 13 and any contributor to such account shall be exempt  
 14 from the tax imposed by this section with respect to  
 15 any transaction concerning such account (which  
 16 would otherwise be taxable under this section) if sec-  
 17 tion 224(d) applies with respect to such trans-  
 18 action.”.

19 (2) PLAN DEFINED.—Paragraph (1) of section  
 20 4975(e) of such Code is amended by striking “or”  
 21 at the end of subparagraph (F), by striking the pe-  
 22 riod at the end of subparagraph (G) and inserting  
 23 “, or”, and by inserting after subparagraph (G) the  
 24 following new subparagraph:



1                   “(H) a personal philanthropy account de-  
2                   scribed in section 224.”.

3           (e) PENALTY ON FAILURE TO REPORT.—Paragraph  
4 (2) of section 6693(a) of such Code (relating to provisions)  
5 is amended by striking “and” at the end of subparagraph  
6 (D), by striking the period at the end of subparagraph  
7 (E) and inserting “, and”, and by inserting after subpara-  
8 graph (E) the following new subparagraph:

9                   “(F) section 224(f) (relating to personal  
10                   philanthropy accounts).”.

11          (f) CONFORMING AMENDMENT.—Paragraph (2) of  
12 section 26(b) of such Code is amended by striking “and”  
13 at the end of subparagraph (S), by striking the period at  
14 the end of subparagraph (T) and inserting “, and”, and  
15 by adding at the end the following new subparagraph:

16                   “(U) section 224(d)(4) (relating to addi-  
17                   tional tax with respect to distributions not used  
18                   for charitable contribution purposes).”.

19          (g) CLERICAL AMENDMENTS.—

20           (1) The table of sections for part VII of sub-  
21 chapter B of chapter 1 of such Code is amended by  
22 redesignating the item relating to section 224 as an  
23 item relating to section 225 and by inserting after  
24 the item relating to section 223 the following new  
25 item:

“Sec. 224. Personal philanthropy accounts.”.

1           (2) The table of sections for part III of sub-  
2       chapter B of chapter 1 of such Code is amended by  
3       inserting after the item relating to section 139A the  
4       following new item:

“Sec. 139B. Contributions by employer to personal philanthropy accounts.”.

5       (h) EFFECTIVE DATE.—The amendments made by  
6       this section shall apply to taxable years beginning after  
7       December 31, 2006.

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